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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2011-12

(session year)

Senate

(Assembly, Senate or Joint)

**Committee on ... Labor, Public Safety, and Urban
Affairs (SC-LPSUA)**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Senate

Record of Committee Proceedings

Committee on Labor, Public Safety, and Urban Affairs

Senate Bill 207

Relating to: permitting an employer to refuse to employ or to bar or terminate from employment an individual who has been convicted of a felony and who has not been pardoned for that felony and preempting cities, villages, towns, and counties from adopting provisions concerning employment discrimination based on arrest or conviction record that prohibit activity that is allowed under the state fair employment law.

By Senators Darling, Lazich, Zipperer, Moulton and Galloway; cosponsored by Representatives Kleefisch, LeMahieu, Jacque, Craig, Knodl, Pridemore, Ziegelbauer, Thiesfeldt, Nass, Endsley, Petersen, Kuglitsch, Litjens, T. Larson and Stroebel.

September 28, 2011 Referred to Committee on Labor, Public Safety, and Urban Affairs.

October 24, 2011 **PUBLIC HEARING HELD**

Present: (5) Senators Wanggaard, Grothman, Lazich, Wirsch and King.
Absent: (0) None.
Excused: (0) None.

Appearances For

- Alberta Darling — Senator, 8th Senate District
- Thomas Hruz, Milwaukee — Wisconsin Civil Justice Council
- Bill Smith — National Federation of Independent Business (NFIB)
- Jason Culotta — Wisconsin Manufacturers & Commerce

Appearances Against

- A. Steven Porter, Madison — Civil Rights & Liberties Section, State Bar of Wisconsin
- Morgan James, Madison
- Barbara Sella, Madison — WI Catholic Conference
- Rose Scott — Prison Action Milwaukee, Inc.
- Robert Baker, Milwaukee — League of Young Voters
- Kenya Wicher, Milwaukee
- Bob Andersen, Madison — Legal Action of Wisconsin
- Sheila Sullivan, Madison — Legal Action of Wisconsin
- Nichole Yunk Todd, Milwaukee — Wisconsin Community Services
- Victoria L. Porter, Milwaukee — Occupy Wall Street/Hood

- Anthony Williams, Milwaukee — Occupy the Hood
- Khalil Coleman, Milwaukee — Occupy the Hood/Milwaukee
- Starr Chalmers, Milwaukee — Occupy Wall Street/Occupy Milwaukee
- Muhammad Mahdi, Milwaukee — Occupy Milwaukee/Hood/Wallstreet
- Bev Richey, Fox Point — Occupy Wall Street/Occupy Milwaukee/Occupy the Hood
- Anthony Williams, Jr., Milwaukee
- Joseph Ellwanger, Milwaukee — Reverend, MICAH/Project Return
- Rob Schreiber, Milwaukee
- William Harrell, Milwaukee — Table of the Saints Prison Ministry
- Supreme S. Allah, Milwaukee
- Andre Brown, Milwaukee — Project Return
- David Fields, Milwaukee — Project Return, Inc.
- Wendel Hruska, Milwaukee — Project Return
- Eugene White, Milwaukee — MICAH
- Mandela Barnes, Milwaukee — MICAH
- La Monte Harris, Milwaukee — Reality Plus One
- Linda Ketcham, Madison — Madison-area Urban Ministry
- Annette Harpole, Racine
- Edward Kuharski, Madison
- Colin B. Good, Madison — Public Interest Law Section
- Colleen Bero-Lehmann — WELA
- John Miller, Madison
- Cynthia Woodland, Madison
- John Mix, Madison — Reverend
- Lisa Glueck — Madison

Appearances for Information Only

- None.

Registrations For

- Andrew Cook, Madison — Wisconsin Civil Justice Council
- Nick George, Madison — Midwest Food Processors Association
- Paul Merline, Madison — Wisconsin Hospital Association
- Jennifer Badeau, Madison — Wisconsin Petroleum Marketers & Convenience Store Association
- Kathi Kilgore, Madison — Wisconsin Hotel & Lodging Association
- Brian Dake, Madison — Wisconsin Independent Businesses
- Brad Boycks, Madison — Wisconsin Builders Association

- Curt Witynski, Madison — League of Wisconsin Municipalities
- Scott Stenger, Madison — Alliance of Wisconsin Retailers, LLC
- Pete Hanson, Madison — Wisconsin Restaurant Association
- Chet Gerlach, Madison — Tool, Die & Machinists Association of Wisconsin
- Greg Hubbard — Waste Management, Inc of Wisconsin
- Steve Baas, Milwaukee — Metropolitan Milwaukee Association of Commerce

Registrations Against

- Lena Taylor, Milwaukee — Senator, 4th Senate District
- Chris Taylor — Representative
- Christine Sinicki — Representative
- Barbara Toles, Milwaukee — Representative, 17th Assembly District
- Dave de Felice — Sen. Coggs' Office
- Rachel Fleming — National Association of Social Workers
- Carrie Manson — Occupy Riverwest
- Mary M. Pharmer, Madison — Reverend, St. Mark's Lutheran Church
- Mark Reihl, Madison — Wisconsin State Council of Carpenters
- Marie Hubbard, Madison — Interfaith Coalition for Worker Justice in South Central Wisconsin
- Renee Bauer, Madison — Rabbi, Interfaith Coalition for Worker Justice of South Central Wisconsin
- Patrick Hickey, Madison — Workers' Rights Center
- Wayne Murphy, Madison — Voices Beyond Bars
- Jerome Dillard — Voices Beyond Bars
- Adam Korbitz, Madison — Public Interest Law Section and the Civil Rights & Liberties Section of the State Bar of Wisconsin
- Joanne Ricca, Milwaukee — Wisconsin State AFL-CIO
- Alicia Skeeter, Milwaukee — Occupy the Hood
- Joel Erickson, Milwaukee — Occupy Milwaukee/Hood
- Dominik R. Primus, Milwaukee — Occupy Milwaukee/Occupy Hood
- Todd G. Endres, Madison
- Wendy Cooper, Madison
- Robin Giles, Madison
- Cody A. Misiak, West Allis
- Laura Chern, Madison
- Darby Puglielli, Madison
- Sharon Wachholz, Middleton

- Mary Wells, Madison
- Jane Peckham, Madison
- Danielle Bailey, Madison
- Thelma Murphy, Milwaukee
- Brian Woods, Milwaukee
- David Schroen, Milwaukee
- Marsha Allen, Milwaukee — Dr.
- Austin Thompson, Milwaukee

Registrations for Information Only

- None.

November 1, 2011

EXECUTIVE SESSION HELD

Present: (5) Senators Wanggaard, Grothman, Lazich, Wirch and King.
 Absent: (0) None.
 Excused: (0) None.

Moved by Senator Wanggaard, seconded by Senator King that **Senate Amendment 1** be recommended for introduction.

Ayes: (5) Senators Wanggaard, Grothman, Lazich, Wirch and King.
 Noes: (0) None.

INTRODUCTION OF SENATE AMENDMENT 1
 RECOMMENDED, Ayes 5, Noes 0

Moved by Senator Wirch, seconded by Senator Wanggaard that **Senate Amendment 1** be recommended for adoption.

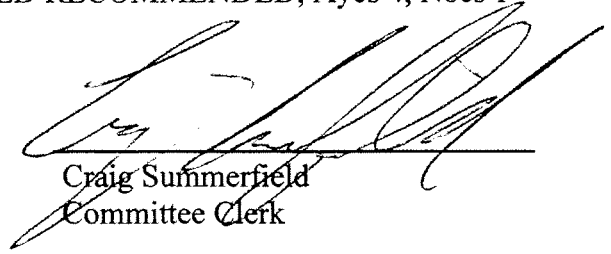
Ayes: (3) Senators Wanggaard, Wirch and King.
 Noes: (2) Senators Grothman and Lazich.

ADOPTION OF SENATE AMENDMENT 1 RECOMMENDED,
 Ayes 3, Noes 2

Moved by Senator Grothman, seconded by Senator Lazich that **Senate Bill 207** be recommended for passage as amended.

Ayes: (4) Senators Wanggaard, Grothman, Lazich and King.
 Noes: (1) Senator Wirch.

PASSAGE AS AMENDED RECOMMENDED, Ayes 4, Noes 1



Craig Summerfield
Committee Clerk

Vote Record
Committee on Labor, Public Safety, and Urban Affairs

Date: 11/1/11
Moved by: Wanggaard Seconded by: King
AB _____ SB 207 Clearinghouse Rule _____
AJR _____ SJR _____ Appointment _____
AR _____ SR _____ Other _____

A/S Amdt 1
A/S Amdt _____ to A/S Amdt _____
A/S Sub Amdt _____
A/S Amdt _____ to A/S Sub Amdt _____
A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

☒ Passage ☐ Adoption ☐ Confirmation ☐ Concurrence ☐ Indefinite Postponement
☒ Introduction ☐ Rejection ☐ Tabling ☐ Nonconcurrence

Committee Member

Senator Van Wanggaard, Chair

Senator Glenn Grothman

Senator Mary Lazich

Senator Robert Wirch

Senator Jessica King

Aye No Absent Not Voting

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Totals:

3-2 _____
5-0

☒ Motion Carried

☐ Motion Failed

Vote Record
Committee on Labor, Public Safety, and Urban Affairs

Date: 11/11/11

Moved by: Wunsch

Seconded by: Wanggaard

AB _____

SB 207

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

A/S Amdt 1

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- ☒ Passage ☒ Adoption ☐ Confirmation ☐ Concurrence ☐ Indefinite Postponement
☐ Introduction ☐ Rejection ☐ Tabling ☐ Nonconcurrence

Committee Member

Senator Van Wanggaard, Chair

Senator Glenn Grothman

Senator Mary Lazich

Senator Robert Wirch

Senator Jessica King

Aye No Absent Not Voting

☒ ☐ ☐ ☐

☐ ☒ ☐ ☐

☐ ☒ ☐ ☐

☒ ☐ ☐ ☐

☒ ☐ ☐ ☐

Totals:

3-2 _____

☒ Motion Carried

☐ Motion Failed

Vote Record
Committee on Labor, Public Safety, and Urban Affairs

Date: 11/1/11

Moved by: Brothman

Seconded by: Lazich

AB _____

SB 207-30

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- ☒ Passage ☐ Adoption ☐ Confirmation ☐ Concurrence ☐ Indefinite Postponement
☐ Introduction ☐ Rejection ☐ Tabling ☐ Nonconcurrence

Committee Member

Senator Van Wanggaard, Chair

Senator Glenn Grothman

Senator Mary Lazich

Senator Robert Wirsch

Senator Jessica King

Aye

No

Absent

Not Voting

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Totals:

4-1

☒ Motion Carried

☐ Motion Failed



CIVIL RIGHTS & LIBERTIES SECTION
PUBLIC INTEREST LAW SECTION

October 21, 2011

TO: Members, Senate Committee on Labor , Public Safety and Urban Affairs

FROM: Attorney Sally Stix, Chair
Civil Rights and Liberties Section, State Bar of Wisconsin

Attorney Stacia R. Conneely
Chair, Public Interest Law Section, State Bar of Wisconsin

RE: Opposition to **Senate Bill 207** (employment discrimination)

The Civil Rights and Liberties Section and the Public Interest Law Section of the State Bar of Wisconsin oppose Senate Bill 207 because it would close the doors to employment opportunities for ex-offenders without justification. This legislation would allow an employer to refuse to employ or to terminate from employment a felon, regardless of whether the elements of the offense substantially relate to the circumstances of a particular job. The bill would result in denial of jobs to qualified applicants, frustrating the State's efforts to reintegrate ex-offenders into society and its efforts to reduce recidivism.

Employment of offenders who have paid their debt to society plays an important role in reintegrating them back into the community and reducing recidivism. Everyone benefits when ex-offenders successfully turn their lives around to become contributing, law-abiding members of the community – the neighbor, the family, the friend and the taxpayer.

When the doors to employment opportunities are shut, it makes it that much harder for ex-felons to begin anew and steer clear of crime. As more crimes are classified as felonies, ex-offenders will find it increasingly more difficult to find a job. Denial of gainful employment can drive criminals to reoffend. When this happens, a heavy price is paid: public safety is jeopardized; our courts are burdened; and state taxpayers are saddled with the ever-increasing cost of our correctional system.

Should employers ever be allowed to deny someone an employment opportunity based on his or her criminal record? State law says yes. Current law allows all employers to discriminate on the basis of conviction records where the "circumstances of the offense substantially relate to the circumstances of a particular job." If the criminal offense does not relate to the job, **MUST** the employer hire the person? State law says no. Current law simply does not allow an employer to automatically reject an applicant simply because of the felony record. Employers can refuse to hire for other reasons.



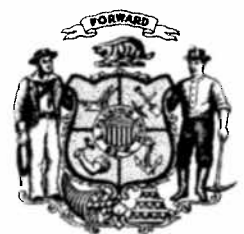
The Civil Rights and Liberties Section and the Public Interest Law Section of the State Bar of Wisconsin believe current law strikes the appropriate balance. It promotes the common goal of reducing recidivism while giving employers the ability to refuse to hire felons whose offense relates to the job. For these reasons, we oppose Senate Bill 207 and urge you not to recommend this bill for passage.

The State Bar of Wisconsin establishes and maintains sections for carrying on the work of the association, each within its proper field of study defined in its bylaws. Each section consists of members who voluntarily enroll in the section because of a special interest in the particular field of law to which the section is dedicated. Section positions are taken on behalf of the section only.

The views expressed on this issue have not been approved by the Board of Governors of the State Bar of Wisconsin and are not the views of the State Bar as a whole. These views are those of the Section alone.



WISCONSIN STATE LEGISLATURE



Alberta Darling
Wisconsin State Senator
Member, Joint Committee on Finance

TESTIMONY BEFORE THE SENATE COMMITTEE ON LABOR, PUBLIC SAFETY, AND
URBAN AFFAIRS
SENATE BILL 207
OCTOBER 24, 2011

Thank you Chairman Wanggaard and members of Senate Committee on Labor, Public Safety, and Urban Affairs for allowing me to speak to you today about Senate Bill 207, which prohibits convicted felons from suing employers that may choose not to hire them, or fire them for poor performance.

Under the Wisconsin Fair Employment Act, it is unlawful for nearly any employer to refuse to hire or terminate an individual based on his or her conviction. Wisconsin is one of only five states (Hawaii, Illinois, New York and Pennsylvania) that have employment discrimination laws addressing conviction. This puts us at a disadvantage to potential employers, especially among neighboring states like Minnesota and Iowa.

Current law makes Wisconsin companies vulnerable to lawsuits for negligent hiring. If a Wisconsin business hires a person with a conviction record and that person commits a crime against a third party while performing their job duties, that employer could potentially be liable for negligent hiring. However, if an employer tries to protect against this liability by refusing to hire such a person, they will almost certainly face a claim under the Wisconsin Fair Employment Act.

If a company hires on a person with a conviction record, and later decides they need to fire the individual for poor performance and/or a bad attitude, they have to anticipate the person will bring a lawsuit against them alleging discrimination. This constant threat of litigation is crippling to business. Man-hours are spent on compiling their case, documenting their actions, going to court, and costs build up in attorney's hours. It is not uncommon for plaintiffs to prolong this process in the hopes of receiving a settlement, or increasing a settlement amount.

Opponents of this bill will argue this bill is about discrimination. Nothing could be further from the truth. People with conviction records will still be protected against discrimination by federal law. They just won't be a separate, protected class under the Wisconsin Fair Employment Act anymore. This bill is about making Wisconsin competitive in the employment marketplace and about improving the state's business climate. We need to make Wisconsin more attractive to employers, and this bill will help do that.

Capitol Office:

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Phone: 608-266-5830
Fax: 608-267-0588

Toll-free: 1-800-863-1113

Email: sen.darling@legis.wisconsin.gov

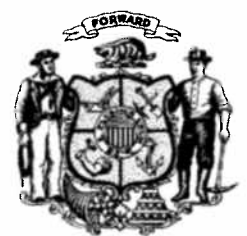
Web page: www.legis.wisconsin.gov/senate/sen08/news/

District Office:

N88 W16621 Appleton Avenue, Suite 200
Menomonee Falls, Wisconsin 53051
Phone: 262-250-9440
Fax: 262-250-8510



WISCONSIN STATE LEGISLATURE



To: Members, Senate Committee on Labor, Public Safety, and Urban Affairs

From: Attorney Colin Good
Board Member, Public Interest Law Section, State Bar of Wisconsin
Hawks Quindel, S.C., (608) 257-0040

Re: Opposition to **Senate Bill 207** (employment discrimination)

Date: **October 24, 2011**

I oppose Senate Bill 207 because the State of Wisconsin is not spending significant administrative resources to determine if employers are unlawfully discriminating against applicants and employees.

The Fiscal Estimate accompanying SB 207 maintains that "[t]he State spends an intangible amount of administrative resources determining if felony conviction of job applications and employees are job related under current law. This proposal might reduce that effort." However, the Equal Rights Division has received a total of 2,463 complaints this year, 245 of which were discrimination complaints based on conviction record.¹ As such, discrimination complaints on the basis of conviction records constitute only nine percent (9%) of the total civil rights cases handled by the Equal Rights Division so far this year. Historically speaking, the Equal Rights Division advances less than twenty-five percent (25%) of its complaints to a hearing.² That means that less than sixty-two (62) individuals who file a conviction record complaint will receive a hearing on the merits of their case.

Moreover, less than two percent (2%) of the Equal Rights Division's civil rights cases are appealed to the Labor and Industry Review Commission and less than one-half of one percent (.005%) to Circuit Court.³ Simply put, the State is not spending significant administrative resources to determine if employers are unlawfully discriminating against applicants and employees.

What resources the State is spending should be weighed against the social costs of legislating discrimination against its citizens. There were approximately 17,817 prisoners under Wisconsin's jurisdiction in 2008, forty-three percent (43%) of whom were black.⁴ When these prisoners have paid their debt to society, this legislation would effectively punish them twice for the same crime and at a higher rate for minorities. Employment of offenders plays an important role in reintegrating them back into the community and reducing recidivism. Penalizing felons for trying to find work will only serve to exacerbate the rates of recidivism and deteriorate the social fabric of our communities. Wisconsin must not countenance the discriminatory impact this legislation will engender.

¹ Open Records Request, October 18, 2011. (See attached)

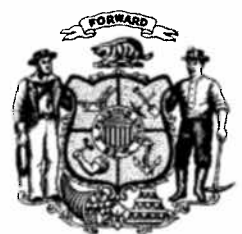
² Department of Workforce Development, Biennial Reports, 2001-2009.

³ Id.

⁴ John Hejduk and Peters Wagner, "Importing Constituents: Prisoners and Political Clout in Wisconsin" March 2008.



WISCONSIN STATE LEGISLATURE



WISCONSIN HOSPITAL ASSOCIATION, INC.



Date: October 24, 2011

To: Members of the Senate Labor, Public Safety, and
Urban Affairs Committee – Senator Van Wanggaard, Chair

From: Judy Warmuth – Vice President, Workforce Development
Paul Merline – Vice President, Government Affairs

Re: Support for SB 207, Relating to permitting an employer to refuse to employ an
individual who has been convicted of a felony

The Wisconsin Hospital Association (WHA) asks you to support Senate Bill (SB) 207, which would allow employers to terminate or refuse to hire an individual based on a felony conviction record, regardless of whether the circumstances of the felony substantially relate to the circumstances of the particular job.

For hospitals, providing for and assuring the safety of patients and protecting them from risk is a constant priority. Beyond patients, the safety of the entire hospital environment must also be taken into consideration in the decisions that are made 24 hours a day, seven days a week, 365 days a year.

Hospitals need to be able to hire the best individuals available for the positions they need to fill, and do so while struggling with already burdensome and sometimes contradictory regulatory requirements. We need to meet requirements that help ensure the safety of our patients, staff, and their property while being careful not to run afoul of laws barring discrimination based on a past criminal record. Current standards, unfortunately, are not clear, making it even more difficult to make these important decisions.

Employers should have the freedom to select individuals that are the best fit for the job openings they have available. Hospitals in particular need to be able to accomplish this while at the same time maintaining the utmost levels of safety for their patients and all their employees.

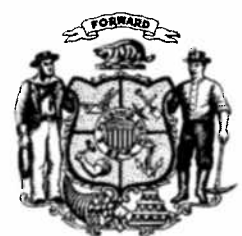
WHA asks that you support SB 207 to ensure employers the flexibility they need to maintain the best possible work environment for those they serve, and those they employ.

About WHA

The Wisconsin Hospital Association (WHA) represents over 140 hospitals and health systems in Wisconsin, nearly all of which are not-for-profit. WHA's mission is advocating for policies that enable our members to provide high quality, affordable and accessible health care services that result in healthier communities. WHA takes a leadership role in fostering a climate of collaboration, respect, and interdependency between and among various stakeholders that affect health care.



WISCONSIN STATE LEGISLATURE



**M E I S S N E R T I E R N E Y
F I S H E R & N I C H O L S
S . C .**

M E M O R A N D U M

TO: **Members, Senate Committee on Labor, Public Safety, and Urban Affairs**
FROM: **Thomas M. Hruz, Esq.**
DATE: **October 24, 2011**
RE: **Senate Bill 207**

I provide the following analysis of SB 207, as well as of the Wisconsin Fair Employment Act's (WFEA)¹ current provisions restricting employment decisions on the basis of an individual's criminal conviction record. I present these comments on behalf of the Wisconsin Civil Justice Council (WCJC) and also, more generally, for Wisconsin's businesses, some of which I have the privilege of representing.

The WCJC and I thank you for allowing us to present this information for your consideration.

I. Summary.

A. Current Wisconsin Law Governing Employment Decisions on the Basis of Criminal Convictions.

Since 1977, Wisconsin has made it unlawful for nearly any employer to refuse to hire or to terminate an individual based on his or her conviction for a crime, even a felony conviction for a violent crime. *See* 1977 Wis. Laws 619; Wis. Stat. §§ 111.32(3), 111.321-.322, 111.325 & 111.335 (2009-10). There is an exception to this rule if the circumstances of the crime or other offense "substantially relate" to the circumstances of the particular job. Wis. Stat. § 111.335(c)1.

The exception is notoriously nebulous and challenging in terms of its application. Initially, administrative law judges and the Labor and Industry Review Commission (LIRC), both of which are charged with the WFEA's enforcement, determined that this exception required a fact-intensive review of factors that an employer is to consider when determining whether an individual's criminal record is of a relation substantial enough to the job at issue. These factors included, but were not limited to: (1) the public profile or nature of the individual's job; (2) the principal duties of that job; (3) the time that had elapsed since conviction(s); (4) mitigating circumstances involved in the crime(s) for which the conviction arose; (5) evidence of rehabilitation; and (6) the number and seriousness of the crimes.

The Wisconsin Supreme Court rejected this approach in its 1987 ruling in *County of Milwaukee v. Labor & Industry Review Commission*, 407 N.W.2d 908 (Wis. 1987). Since that decision, the exception generally requires only a significant degree of similarity between the nature of a crime, as defined through its elements, and the nature of a job, as defined through its

¹ Wisconsin Statutes, Chapter 111, Subchapter II.

duties and the context in which it is performed. The Court expressly rejected an interpretation of the substantial-relation exception which would require, in all cases, a detailed inquiry into the facts of the offense and the job. *Id.* at 916. Instead, the Court ruled that assessing the relationship between the circumstances of a criminal offense and the circumstances of a job requires only an inquiry into “the circumstances which foster criminal activity that are important, e.g., the opportunity for criminal behavior, the reaction to responsibility, or the character traits of the person.” *Id.*

Despite this precedential ruling, lower courts and administrative agencies still have broad discretion when applying this standard, as witnessed by the rulings in various cases over the past decades. These cases include a number of questionable rulings in favor of violent criminals over their potential employers. As a result, it is not altogether clear to businesses how the exception will be applied when they engage in decisions over the hiring or termination of any particular individual. What’s more, certain ex-convicts (and their legal counsel) are savvy enough to threaten, or actually to assert, unlawful discrimination claims in the hopes of using the mere threat of litigation as a means to achieve either the employment at issue or (more commonly) monetary, “nuisance-value” settlement of such claims.

B. Proposed Legislation.

Senate Bill 207 would amend the WFEA such that it would *not* be unlawful employment discrimination for an employer to refuse to hire or to terminate from employment an individual who has been convicted of a felony *and* who has not been pardoned for that felony. This would be the case *regardless of* whether the circumstances of a felony relate to the circumstances of a particular job. The bill would permit employment discrimination on the basis of pardoned felony convictions or misdemeanors, but only if the circumstances of the offense “substantially relate” to the circumstances of the job—i.e., the standard currently applicable to all offenses.

The bill also finds the governance of employment decisions on the basis of arrest or conviction records to be a matter of statewide concern. It therefore preempts cities, villages, towns, and counties from adopting provisions concerning employment discrimination based on arrest or conviction record that prohibit any activity allowed under the WFEA, as amended.

II. Wisconsin’s Rule Providing Employment Protection to Convicted Criminals Is Decidedly the Minority View.

Wisconsin remains one of only a handful of states with employment discrimination laws addressing conviction records.² No other states beyond these handful have directly addressed within their statutory laws the matter of employment discrimination based on criminal conviction

² These other states appear to include Hawaii, Kansas, Illinois, New York, and Pennsylvania, although under varying standards.

records for all employers.³ Rather, courts in other states that address discrimination complaints based on the use of conviction records mostly defer to the treatment available under Title VII of the Federal Civil Rights Act of 1964 (Title VII) and either explicitly or implicitly adopt the “disparate-impact” test developed under this federal law, which is discussed immediately below.

III. After Passage of SB 207, Applicable Laws Would Still Protect Against Certain Forms of Employment Discrimination on the Basis of Conviction Records.

It is important to recognize that what the WFEA currently accomplishes—by including persons with conviction records among the enumerated classes protected from employment discrimination—is the enabling of what is understood in the law as a “disparate treatment” claim for discrimination. In other words, with limited exceptions, so long as there is *any* intent to use an individual’s criminal conviction as a basis to take an adverse employment action, an unlawful violation occurs. SB 207 seeks to change this remarkable equation of criminal history with the other classes and activities the WFEA protects. Even then, the bill does so only modestly. Namely, it would eliminate nearly all disparate-treatment claims based on a decision not to hire or to fire someone because of his or her unpardoned felony conviction; pardoned felony convictions, misdemeanor convictions and other offenses retain the current protection found under the WFEA.

Moreover, the amendments to the WFEA supplied by SB 207 would *not* undermine the most-legitimate basis for questioning the use of criminal records in employment decisions—namely, a “disparate impact” on otherwise protected classes (such as racial minorities). Title VII prohibits ostensibly neutral job requirements, if those criteria disproportionately exclude a protected class and they are not job-related or necessitated by a feature of the job or business involved. *See Griggs v. Duke Power Co.*, 401 U.S. 424 (1971) (making illegal, under federal law, those employment practices having a verifiable, negative disparate impact on those classes expressly protected by Title VII); *see also Ricci v. DeStefano*, 129 S. Ct. 2658 (2009). In particular, federal courts across the country since the Eighth Circuit of U.S. Court of Appeals’ decision in *Green v. Missouri Pacific Railway*, 523 F.2d 1290 (8th Cir. 1975), have consistently ruled that use of conviction records as an *absolute* bar to employment is unlawful, due to the commonly disparate impact on racial minorities of such a policy. *See, e.g., U.S. v. City of Chicago*, 549 F.2d 415, 428 (7th Cir. 1977). However, these rulings do not entirely preclude the use of a criminal conviction as an employment factor, if this information is used for a readily identifiable, purposeful and defensible reason.

Given that Wisconsin also recognizes the viability of disparate-impact claims under the WFEA, *see, e.g., Racine Unified Sch. Dist. v. LIRC*, 164 Wis. 2d 567, 594-95, 476 N.W.2d 707 (Ct. App. 1991), a similar system would be created under the WFEA for employers who consider unpardoned, felony convictions in their hiring decisions.

³ A number of states have different employment discrimination laws in relation to public-sector employees versus private-sector workers, with greater protections being afforded the former category of employees.

This point undermines arguments that a change such as that accomplished by SB 207 somehow tacitly allows employers to unabashedly discriminate against any and all persons with a felony record. Employers' use of conviction record information in personnel decisions will remain governed, and limited, by Title VII and the WFEA under disparate-impact analyses.⁴ These laws, combined with the ready aid of the regulators who administer them, will still protect Wisconsin citizens from truly invidious discrimination. Again, this approach is how nearly all other states handle the issue of conviction-record discrimination in employment decisions.

IV. A Hobson's Choice?: The WFEA's Ban on Convicted-Record Discrimination and Wisconsin's Law on Negligent Hiring.

Like many other states, Wisconsin recognizes negligent hiring as a tort action. *Miller v. Wal-Mart Stores, Inc.*, 580 N.W.2d 233 (Wis. 1998). Therefore, a Wisconsin business could potentially be negligent in hiring a particular person with a conviction record if the employer knew, or should have known, that person was prone to commit a crime against a third party while performing the employee's job duties. If the employer attempts to protect against this liability by refusing to hire such a person on this basis, it will almost assuredly face a claim under the WFEA.

It has been argued that this concern over negligent hiring liability is not that great in application, even if in theory it seems entirely plausible—i.e., that prohibitions on employers considering conviction records should not increase liability for employers under negligent hiring. This may very well be true, but that may also be because courts are hesitant to strictly enforce negligent hiring torts, especially in such contexts. In all events, the mere fact that the issue of negligent hiring arises in the context of employment discrimination based on conviction records highlights the inherent, material difference between criminal records and other prohibited reasons for employment discrimination.

V. The WFEA's Ban of Any Employment Discrimination on the Basis of Conviction Records Is Poor Policy.

Employment discrimination laws exist primarily to protect populations that are prone to harmful discrimination or those that historically have been discriminated against, thereby unjustly limiting their opportunities in the labor market and impugning their dignity. Implicit in these laws is a determination that the trait or traits defining protected populations are largely, if not wholly, unrelated to an individual's ability to successfully perform a job.

The notion that criminal histories are *always* "unrelated" to an individual's suitability for employment is fundamentally wrong. An applicant's character, including his or her propensity to commit crimes, is highly relevant to businesses when making hiring decisions. This is especially true of small businesses, in which the working unit is composed of a closely knit set of

⁴ This point is limited inasmuch as Title VII's provisions only apply to employers engaged in interstate commerce and that have at least 15 employees, 42 U.S.C. § 2000e(b), unlike the WFEA, which governs all employers in Wisconsin with at least one employee, Wis. Stat. § 111.32(6)(a).

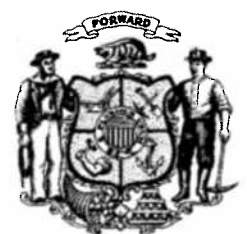
employees, each often with considerable responsibility to the business's welfare. Yet, the law currently protects criminals, including violent ones, over employers, most of whom attempt in good faith to hire those persons who are the best for their respective businesses but also may wish to avoid associating with certain criminals.

It is also troubling that a person's conviction record is being accorded the same protection as other bases of discrimination, such race, sex and religion. Although the intention of the law is largely based on social policy considerations of criminal rehabilitation, it remains exceedingly difficult to justify why this highly mutable trait—one terribly reflective of an individual's character—is essentially restricted for employers to consider. Meanwhile, a multitude of *other* character-relevant traits avoid (properly) legal scrutiny.

Finally, SB 207's effect is neither to explicitly nor implicitly condone irrational discrimination based on criminal records. It simply permits employers the discretion to openly weigh the importance of a conviction to the hiring or retention of an employee. To the extent that economic and business considerations cause employers to decide that an applicant is the best person for a job, despite his conviction record, that freedom will remain. Judicious employers often will still hire the most-productive workers, regardless of someone's criminal past. What *will* occur, however, is that the criminal offender will bear the onus of demonstrating that he or she should be absolved of that offense, at least in terms of genuinely manifesting an ability and willingness to perform the job at issue with due respect to the rights of others.



WISCONSIN STATE LEGISLATURE



DATE: October 24, 2011

TO: The Wisconsin Senate Committee – Labor, Public Safety, and Urban Affairs

FROM: Annette Harpole, American Citizen and Resident of Racine, Wisconsin

A handwritten signature in black ink, appearing to read "Annette Harpole", is written over the "FROM:" line.

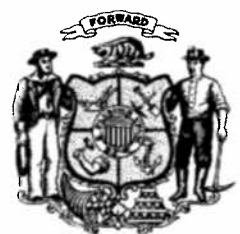
RE: Wisconsin ~~Senate~~ Bill 207 – Oppose Adoption

MEMO

I am opposed to the Wisconsin Legislature adopting Senate Bill 207, a companion bill to Assembly Bill 286. Senate Bill 207 if passed will allow employers to discriminate even more than they do now against employment applicants who have felony records but who have completed their incarceration time. If a person has completed their incarceration time and are deemed ready to re-enter the community, are they not then expected to live as free citizens? If so, how can a person afford housing, food, and help take care of their family if they cannot be hired by anyone? Are we not saying as a State then that we have obeyed the letter of the law and allowed the person to go free – walk away from the penitentiary; however, we are re-incarcerating the person in effect by telling employers on the outside to not hire felons who have completed their sentences. Why is it okay to employ prisoners while they are incarcerated and paid pennies on the dollar for every hour they work? Yet when former inmates are released from prison, it is suddenly not okay to employ them when they could now make a liveable wage? By encouraging employers not to hire former felons, the State is basically encouraging past behaviors that will probably make the person go back to prison. Why would the State want that unless they want to employ them while they are in prison and have employers only pay them pennies on the dollar for every dollar worked — almost like slavery. What is the State's real motivation for not encouraging employers to employ people with felonies upon re-entry into the community? I would like to know.



WISCONSIN STATE LEGISLATURE





WISCONSIN'S BUSINESS VOICE SINCE 1911

TO: Members of the Senate Committee on Labor, Public Safety, and Urban Affairs

FROM: Jason Culotta, Director of Civil Justice Policy

DATE: October 24, 2011

RE: Senate Bill 207 – Conviction Records as a Protected Class under WFEA

Providing a Safe Workplace

Chapter 101.11 of the state statutes requires employers to provide a safe work environment for employees, vendors, and customers. Employers need to conduct background checks of potential employees in order to ensure a safe place of employment. Some applicants choose not to disclose their felony convictions; when that status is eventually revealed, they can be terminated for falsifying their application.

Under the safe workplace statute, a responsible employer has the duty to be aware of the criminal records of their employees. The employer will need to defend either the hiring decision or the failure to hire.

WMC Position

This legislation would remove felony conviction records from the list of protected classes under the Wisconsin Fair Employment Act (WFEA).

One frustration for employers is that when they receive multiple applications and choose to hire an applicant without a felony record, they may have to defend their decision not to hire the felon. This is even the case when it was a legitimate hiring decision to hire the chosen applicant.

Another frustration is that there is no “safe harbor” where an employer can choose not to hire a person with a felony record and not have that decision challenged. There are occupational areas defined by statute in the health care field where the Legislature has told employers that they are forbidden by law from hiring certain persons with certain criminal records. However, there are a wide range of occupational areas not covered by statute where an employer should not be required to consider persons with felony records for employment.

A third frustration is that an employer does not know they have violated a law until an administrative law judge (ALJ) tells them that they have violated the law. For instance, an employer may reject an application from ten different individuals on ten separate occasions for ten different jobs. Yet, on the eleventh application for another job, the employer may go through the same process of reasoning but find out at the end of litigation that their decision is “discriminatory” in the view of one ALJ.

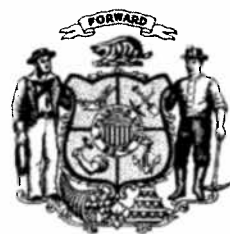
This final frustration applies to WFEA litigation in general. Claims are costly to defend from the employer's perspective. For example, an employer may spend \$30,000 in legal fees to find out that they did not discriminate, yet they cannot collect legal fees from the person who alleged discrimination. If the employer loses, he or she can be held liable for the legal costs of the applicant, so it is a one-way street.

Conclusion

For these reasons, WMC urges the Committee to support SB 207.



WISCONSIN STATE LEGISLATURE





WISCONSIN CIVIL JUSTICE COUNCIL, INC.

Promoting Fairness and Equity in Wisconsin's Civil Justice System

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*Wisconsin Petroleum
Marketers & Convenience
Store Association*

Edward Lump
*Wisconsin Restaurant
Association*

MEMORANDUM

To: Members, Senate Labor, Public Safety, and Urban Affairs Committee
From: Andrew Cook, on behalf Wisconsin Civil Justice Council
Date: October 24, 2011
Re: **Support of Senate Bill 207, Removing Conviction Records as Protected Class under the Wisconsin Fair Employment Act**

Wisconsin is one of only sixⁱ states that expressly include convicted felons as a protected class of citizens under its Fair Employment Act. This affords a criminal conviction the same protection as age, race and creed under the law.ⁱⁱ

For employers looking to hire workers, this special status can lead to costly lawsuits and a no-win liability trap. Hire the convicted felon and be responsible for their actions, or refuse to hire and be subject to a costly lawsuit.

Assembly Bill 286/Senate Bill 207 protects businesses by reducing unjustified litigation threats while aligning Wisconsin law with the vast majority of other states.

The bill also preempts cities, villages, towns, and counties from adopting provisions concerning employment discrimination based on arrest or conviction record.

Background of Wisconsin Fair Employment Act

The current Wisconsin Fair Employment Act (WFEA) prohibits employment discrimination based on age, ancestry, arrest record, *conviction record*, creed, color, disability, marital status, military service, national origin, race, sex, or use or nonuse of legal products during nonwork hours off the employer's premises.

The WFEA does provide an exception to the conviction record prohibition where the "felony, misdemeanor or other offense...substantially relates to the circumstances of the particular job."ⁱⁱⁱ However, the "substantially relates" exception is not well defined in the statutes. Courts and administrative agencies have broad discretion when applying this standard and therefore it is not at all clear to businesses how the exception will be applied when hiring or terminating an individual.

Law has been a Deterrent to Businesses while Protecting Violent Criminals

Although current law provides an exception allowing employers to refuse to hire or terminate a person based on their conviction record if it "substantially relates" to the job, the exception is broadly written and fails to provide employers the necessary guidance they need to run their businesses. As a result of the law, employers may face costly and dubious lawsuits from individuals who were either terminated from their position or not hired, simply because the person may have had a conviction record.

A convicted felon who is not hired or terminated merely has to file a claim under the WFEA and seek damages, likely forcing the employer to settle the case or incur unnecessary expenses fighting the lawsuit. More troubling, the law protects violent criminals over employers.

(over)

The “Halloween Killer,” Gerald Turner: Known as the “Halloween Killer,” Gerald Turner was convicted of raping and murdering a 9-year-old girl who disappeared while trick-or-treating in Fond du Lac. After his release from prison, Turner applied for a job sorting recyclables at Waste Management, Inc. in Madison. After Waste Management refused to hire him, Turner filed a lawsuit under the WFEA. An administrative law judge found probable cause that unlawful discrimination based on conviction records had occurred.^{iv} As a result, Waste Management settled out of court with Turner for an undisclosed amount of money.

Milwaukee Public Schools Case: Another example is a case involving Mark Moore who was convicted of throwing hot grease from a pan directed at his girlfriend, which instead hit a 20-month-old child, causing severe burns to the child. After serving time in jail, Moore was hired as a maintenance person with the Milwaukee Public Schools (MPS) system. After learning of his conviction, MPS terminated Moore for intentionally falsifying his employment application by failing to include his conviction.

Moore reapplied for a similar job but was not hired by MPS. Moore then filed a discrimination lawsuit under the WFEA against MPS with the Department of Workforce Development. The Court of Appeals concluded that MPS unlawfully discriminated against Moore based on his conviction record. Applying the nebulous “substantially related” test, the court ruled that the circumstances of Moore’s conviction were not substantially related to the job of Boiler Attendant Trainee.

Wisconsin Should Remove Convicted Felons as a Protected Class under the WFEA

It is time for Wisconsin to remove the conviction record as a basis for discrimination under the WFEA for the following reasons:

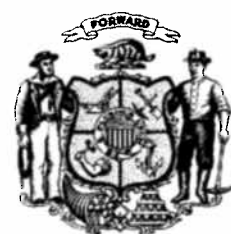
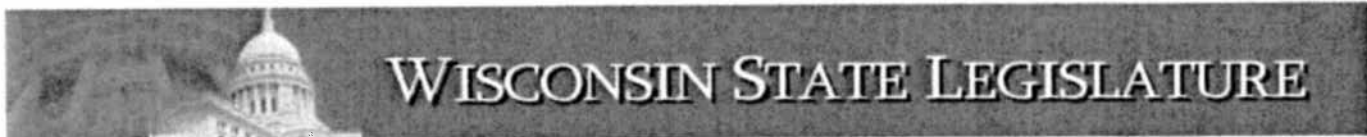
- The current law is undesirable because it expressly grants individuals with conviction records the same status of a protected class. A person’s conviction record should not be placed in the same category as other bases of discrimination, such race, sex, religion, and other commonly protected classes.
- The current law is unnecessary because federal law protects employees from unlawful discrimination by employers. For example, under Title VII of the Civil Rights Act of 1964, if an employer’s hiring policy has a “disparate impact” on minorities and is not justified by a business necessity, it is unlawful.
- WFEA’s convicted records prohibition denies employers the ability to truly assess job applicants. An applicant’s character and his or her propensity to commit crimes are highly relevant to businesses when making hiring decisions. A strict application of the law against employers’ use of conviction records denies employers an important element in their hiring decisions.
- Like many other states, Wisconsin recognizes negligent hiring as a tort action. Therefore, a Wisconsin business could potentially be negligent for hiring a person with a conviction record if the employer knew, or should have known, the person was prone to commit a crime against a third party while performing the employee’s job duties.

ⁱ The other five states with similar state statutes include: Hawaii (Haw. Rev. Stat. Ann. § 378-2); Illinois (775 Ill. Comp. Stat. Ann. 5/2-103); Kansas (Kan. Stat. Ann. § 22-4710(f)); New York (N.Y. CORRECT LAW § 752); Pennsylvania (19 Pa. Cons. Stat. Ann. § 9125).

ⁱⁱ Thomas M. Hruz, Comment: *The Unwisdom of the Wisconsin Fair Employment Act’s Ban on Employment Discrimination on the Basis of Conviction Records*, 85 Marq. L. Rev. 779, 781 (Spring 2002).

ⁱⁱⁱ Wis. Stat. § 111.335(1)(c)(1).

^{iv} Thomas M. Hruz, *Criminals Escaping Affliction: Gerald Turner and Wisconsin’s Fair Employment Law*, WI: Wisconsin Interest, Winter 2000, at 7.



Testimony regarding SB 207

Submitted by: Wendy Cooper

October 24, 2011

Hearing before the Senate Committee on Labor, Public Safety and Urban Affairs
Chairman Wangaard, and members of the Committee:

Thank you for the opportunity to express my opinion regarding Senate Bill 207.

My name is Wendy Cooper, and I come before you today as a Pastor in training, and seminary student preparing for Christian ministry. Prior to seminary I spent a decade as a staff member at a large church in Madison where I had primary responsibility for outreach and community ministries, including responding to people in crisis seeking assistance from the church.

In addition, I have served on the Board of Directors of the Madison Area Urban Ministry, Wisconsin Interfaith IMPACT, and Dane County United.

I oppose this legislation because I do not believe that it is in the best interest of this State to help create a class of permanently unemployable adults. I am also here to testify that misguided legislation like this is like a TAX on church-goers in this state. Please let me explain why that is.

When people cannot find work they become desperate. And when people are desperate – they often find their way to local churches. Every Pastor I know has experienced an exponential increase in the number of people seeking our help in recent years.

Over the last decade I have worked directly with many men and women with felony convictions, all of whom were trying to return to community and family life after a period of incarceration. Almost without exception they were visiting my church office seeking assistance because they could not find employment. No employment meant that they were unable to pay for basic things like housing, food, medications for themselves and family members, and transportation.

No employment meant that they could not contribute to the support of their children, or to the support of other family members.

No employment meant that they had no possibility of health insurance.

For some, no employment meant the threat of a probation/parole revocation and return to prison. And when individuals are returned to prison because of probation/parole violations related to not being employed, we extend the taxpayer costs of their incarceration; and their families suffer from their extended absence and additional lost support.

The Church is called to respond with mercy to those who are hungry, who are homeless, who are ill. Our congregation members are increasingly asked to give, and give and give some more to respond to crisis situations – and despite the dramatic declines in household income that many of our members are experiencing this year – they are reaching into their pockets to respond.

Legislation like this that exacerbates the problem of unemployment for people who have been convicted of felonies will increase the demand on churches and their members. And we are already feeling the weight of increasing poverty, increasing unemployment and declining wages in this state. And we are already feeling the impact of high unemployment among people who have felony convictions in their past.

Employers can look up an applicant on the WI Circuit Court Access Program (CCAP) with ease, and my guess is that many applicants with felonies are being screened out right now.

In over a decade I have never heard of a case where an applicant successfully challenged an employer over denial of employment related to having a felony. Since 2000, I have never personally met nor have I heard of any applicant who even considered challenging an employer over a rejected application. Where is the evidence that a serious problem exists requiring a radical action like SB 207?

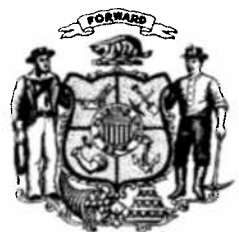
What is the state's interest in creating a class of people that can be barred, permanently, from employment? There is none.

To the contrary, the State of Wisconsin has an interest in returning people to the community and encouraging their return to gainful employment as quickly as possible. And the state has an interest in keeping those people employed. Existing law provides appropriate protection to employers. The business community may have a desire for this legislation, but it is not in the State of Wisconsin's interests to support their desire.

I urge you to vote no on SB 207.



WISCONSIN STATE LEGISLATURE





WISCONSIN CATHOLIC CONFERENCE

TO: Members, Senate Committee on Labor, Public Safety, and Urban Affairs

FROM: Barbara Sella, Associate Director

DATE: October 24, 2011

RE: Senate Bill 207, Employment of Unpardoned Felons

The Wisconsin Catholic Conference (WCC) thanks you for the opportunity to submit testimony in opposition to Senate Bill 207, which would permit employers to terminate or refuse to employ any person convicted of an unpardoned felony.

Our stance on criminal justice issues is guided by the social teaching of the Catholic Church and the insights gained from long experience ministering to prisoners, ex-offenders, crime victims and their families. Several principles of Catholic teaching lead us to oppose this bill: 1) respect for the human person, 2) common good, 3) option for the poor and marginalized, 4) solidarity, and 5) reconciliation and rehabilitation.

Our experience in the Department of Corrections' (DOC) Religious Practices Advisory Committee (RPAC) and the Church's direct ministry confirm what research has demonstrated, namely that offenders with the best chance of rehabilitation are those who have a caring family, a supportive faith community, and gainful employment. (The RPAC, of which the WCC is a founding member, includes DOC staff and representatives of other faith communities. It has been meeting regularly for about a decade to advise the DOC on issues of religious liberty and prisoner reintegration, as well as to learn from the DOC about the specific challenges facing prison staff and offenders.)

Church volunteers of all denominations who work in prisons and in the community are instrumental in helping reconcile and rehabilitate ex-offenders. But in order to be most effective, they need the support of our laws and our communities. Passage of SB 207 will make their efforts more difficult because it sends a negative message. It will make currently employed ex-felons fear that they can be terminated at will and diminish the hopes of those who seek employment.

In our view, the common good is served best when an ex-felon is encouraged to find a good job. Children of ex-felons benefit when their parents are working. Public safety is enhanced as stable employment reduces the risk of recidivism. Taxpayers save money when the prison population decreases. At-risk youth are given hope when they see ex-felons who are dedicated to honest employment rather than indolence or crime.

Another serious problem we see with this bill is that it could disproportionately affect minorities. Though they comprise only about six percent of our state's population, African Americans account for nearly half of our state's prison population. Enacting SB 207 may unwittingly serve to increase disparities for some of our poorest and most marginalized residents.

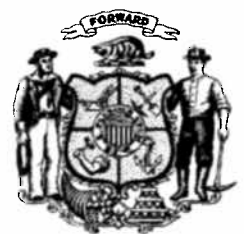
Respect for human dignity requires that people have the opportunity for and the responsibility of productive work. We believe current law does just that. While giving employers the discretion to deny work to those whose past conduct is relevant to their employment, it sends the powerful message to ex-offenders that society wants them – indeed expects them – to secure lawful employment.

Laws serve not just to punish wrongdoing, but also to guide society towards its highest goals. The Wisconsin Fair Employment Act (WFEA) achieves this dual purpose and we see no compelling reason to change it.

For all these reasons, we urge you not to advance SB 207.



WISCONSIN STATE LEGISLATURE





Wisconsin

Statement Before the Senate Committee on Labor, Public Safety and Urban Affairs

By

**Bill G. Smith
State Director
National Federation of Independent Business
Wisconsin Chapter**

**Monday, October 24, 2011
Senate Bill 207**

Mr. Chairman, members of the Committee, I appreciate this opportunity to comment on Senate Bill 207.

The NFIB is a non-profit organization of approximately 12,000 members located throughout our state. The typical member has fewer than ten employees, has \$350,000-400,000 in annual gross sales, and the compensation of a typical small business owner member is about \$40,000 per year.

I hope you will keep that profile in mind as I testify today in favor of passage of Senate Bill 207.

Current law presents considerable financial risk to a small employer. A settlement of \$3, \$5 or \$10,000 in an employment-related action, regardless of guilt or innocence, can be devastating to a small business.

Small business owners support this legislation not because they choose to discriminate or unfairly deny employment opportunity to an applicant, but because they have an obligation and responsibility to their customers, as well as those employed in that workplace.

When there are just 3, 5 or a dozen employees, it is critical they work together and are comfortable with their fellow workers. Disharmony, distrust, fear, and uncertainty dramatically reduces sales, limits production, and threatens the economic viability of that firm.

Aside from the serious financial risk that the current fair employment law can impose on our state's small businesses, there is also personal risk, which may be true for all firms, but for smaller businesses, this risk is especially unique and potentially devastating.

A study by the NFIB Education Foundation, entitled *Business Starts and Stops*, included a profile of family involvement in a new business. I'd like to share with you a profile of that involvement.

About 20 percent of the start-up businesses had at least one family member as an active participant in that business – a spouse is the most frequent family member actively involved in the business – 32.6 percent followed by:

- 23.5% - Siblings
- 13.0% - In-Laws
- 9.2% - Child
- 9.2% - Parents of the business owner
- 4.5% - Other relatives

The conclusion is obvious – small business owners need the necessary legal tools to help them maintain a secure, harmonious workplace environment for their family members who are typically employed at a small business, and these small firms should not be placed at any unnecessary financial risk as a result of making decisions they feel are in the best interests of their employees and their family members.

As a long-term member of the Prison Industries Board, I understand the importance, and also know the challenges of finding meaningful employment for ex-inmates.

Members of the Prison Industries Board work hard developing programs that will help turn former inmates into productive citizens.

We need workers at all skill levels – I am confident passage of SB 207 will not unjustly or unnecessarily deny work opportunity to any applicant. This legislation does not prohibit employers from hiring or promoting people with criminal records.

It is a reasonable proposal, favored by 86% of our members according to recent survey studies, and I urge members of the Committee to act favorably on Senate Bill 207.

Thank you.